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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,421	11/18/2005	Breda M Cullen	JJM5002USPCT	4759

27777 7590 07/13/2007

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EXAMINER	
LEWIS, KIANDRA CHARLE	
ART UNIT	**PAPER NUMBER**
3772	
MAIL DATE	**DELIVERY MODE**
07/13/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/527,421	CULLEN ET AL.	
	Examiner	Art Unit	
	Kiandra C. Lewis	3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 November 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11 and 13* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11 and 13* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *18 November 2005* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *03/11/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Response to Amendment

2. Applicant's amendment filed 3/11/2005 has been entered. Claims 1-11 and 13 are now pending. Claims 12, 14, and 15 have been cancelled.

Specification

The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
    (1) Field of the Invention.
    (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a

nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

3. The spacing of the lines of the specification is such as to make reading difficult. New application papers with lines 1½ or double spaced on good quality paper are required.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1, 2, 4, 6-11 and 13 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 3, 5-7, 11, and 12 of copending Application No. 10/579, 850 (US PGPUB 2007/0100269). Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are a broader recitation of the

invention in some aspects and a more specific recitation in other aspects including the same limitations as the copending application.

6. As to claims 1, 7, 8, 10 and 13 of the instant application, claim 7 of the copending application recites that the wound dressing comprises about 0.01-5wt% of silver, the limitations of the instant application fall within this range.

7. As to claim 2 of the instant application, claim 6 of the copending application states the wound dressing comprises a salt that is an anionic polymer and Ag+.

8. As to claim 4 of the instant application, claim 3 of the copending application requires the limitation that the substrate comprises materials from the group including oxidized celluloses.

9. As to claim 6 of the instant application, claim 5 of the copending application requires that the wound dressing is in the form of a sheet that is freeze-dried sponge, woven or nonwoven.

10. As to claim 9 of the instant application, claim 11 of the copending application requires that that dressing material comprises collagen and oxidized cellulose.

11. As to claim 11 of the instant application, claim 12 of the copending application states that the wound dressing is sterile and packaged in a microorganism-impermeable container.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

13. Claims 1-6, 8, 10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flick US 7,214,847 in view of Schoenfeldt et al. US 6,565,878.

14. As to claims 1, 5 and 8, Flick discloses a wound dressing wherein it is stated that the silver is from 1% to 40% in weight. The ranges claimed by the applicant fall within that as disclosed by Flick. It is known in the art of wound dressing that wound dressing materials with silver comprise a polysaccharide or polymer that come together to form a salt, as shown by Schoenfeldt et al. (col. 5-col. 6). It would have been obvious to one having ordinary skill in the art that the wound dressing material would include one of the polysaccharides as taught by Schoenfeldt et al. for the purpose of producing a wound dressing that promotes healing and has analgesic properties.

15. As to claims 2 and 13, Flick discloses that a wound dressing comprising a silver in the range of 0.1-3% wt. It is known in the art of wound dressing that wound dressing materials with silver comprise a polysaccharide or polymer that come together to form a salt, as shown by Schoenfeldt et al. (col. 5-col. 6). It would have been obvious to one having ordinary skill in the art that the wound dressing material would include one of the polysaccharides as taught by Schoenfeldt et al. for the purpose of producing a wound dressing that promotes healing and has analgesic properties.

16. As to claim 3, the above combination teaches that the anionic polysacharride as a polycaboxylate (col. 4, lines 49-53).

17. As to claim 4, the above combination teaches using an anionic polysaccharide such as an alginate (col. 4, lines 15-19).

18. As to claim 6, Schoenfeldt et al. teach that the material may be gel and/or freeze dried (col. 3, lines 19-37).

19. As to claim 10, the above combination discloses that this is used for the purpose of promoting wound healing ('847,col. 10, lines 29-30) and comprises wound dressing material ('847, col. 20, lines 41-49).

20. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Flick and Schoenfeldt et al. as applied to claims 1-6, 8, 10 and 13 above, and further in view of Gibbins et al. US 6,605,751.

21. As to claim 11, Flick and Schoenfeldt et al. substantially disclose the limitations to the base claim, see rejection to claims 1 and 10 above, but do not expressly state that the wound dressing is sterile and packages. Gibbins et al. disclose a wound dressing comprising a polysaccharide and silver for the purpose of promoting wound healing (col. 1, lines 16-22). Gibbins et al. teach that the dressing is sterile and packaged (col. 17, lines 46-47), therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have the wound dressing sterile and packaged so that it would be suitable for patient use to promote healing not increase infection.

Conclusion

22. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 3,092,552; 5,744,151; 5,271,943; 5,554,598; 6,605,751.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kiandra C. Lewis whose telephone number is 571-272-7517. The examiner can normally be reached on Mon-Thurs 9AM-6PM and alternating Fridays 9AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on 571-272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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7/9/07